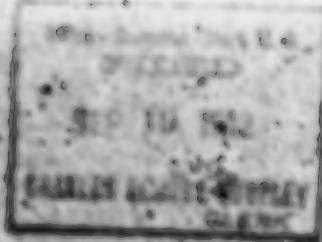


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No. 337-389

In the Supreme Court of the United States

OCTOBER TERM, 1943

Reconstruction Finance Corporation.

1

BAXTER'S DRUG COMPANY, BOSTON.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

MEMORANDUM FOR THE INTERSTATE COMMERCE COMMISSION AS ANOTHER CARRIER

In the Supreme Court of the United States

OCTOBER TERM, 1942

Nos. 387-388

RECONSTRUCTION FINANCE CORPORATION, PETITIONER

v.

BANKERS TRUST COMPANY, TRUSTEE

ON PETITION FOR WRITS OF CERTIORARI TO THE UNITED
STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH
CIRCUIT

MEMORANDUM FOR THE INTERSTATE COMMERCE COM-
MISSION, AS AMICUS CURIAE

The Interstate Commerce Commission, as *amicus curiae*, urges this Court to grant the petition for writs of certiorari in this case. Its interest arises from the fact that under subsection (c) (12) of Section 77 of the Bankruptcy Act it is charged with the duty of fixing maximum limits of allowances to be paid out of the debtor's estate for the actual and reasonable expenses incurred by parties in interest in connection with the proceedings and plan and reasonable compensation for services in connection therewith by trustees under indentures.

The Commission, by leave of the court below, filed brief and presented oral argument as *amicus curiae* in the appeals from the order of the District Court. The Commission also intervened in the case of *Matter of the New York, New Haven and Hartford Railroad Company, Debtor*, No. 16562, in the District Court of Connecticut, which resulted in an opinion by Judge Hincks directly contrary to the opinion of the Circuit Court of Appeals in this case (Appendix A to Petition for Certiorari).¹

In view of the doubt created by the decision below when compared with the decision of the District Court for Connecticut, it is important to the efficient performance of the Commission's duties that the extent of its jurisdiction over claims of mortgage trustees for services and expenses in railroad reorganization under Section 77 be definitely established by decision of this Court.

Respectfully submitted,

CHARLES FAHY,
Solicitor General.

DANIEL W. KNOWLTON,
Chief Counsel,
Interstate Commerce Commission.

SEPTEMBER 1942.

¹ Petitions for leave to appeal have been filed with the Circuit Court of Appeals for the Second Circuit.